IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTIETH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 24525 of 1998

Between:

1 M/s. Chida Spinning Mills Pvt. Ltd. rep. by its Director Sri A.R.

Murugappan
P.O.Box no.14, Puttur-517 583. Chittoor Dist.
2 Sri A.R.Murugappan Director, Chida Spinning Mills Ltd
No. 32, Luz Avenue, Mylapore, Madras-600 004.

..... PETITIONERS

AND

1 Commissioner and Director of Marketing, Govt of A.P.
Hyderabad.
2 The Joint Director of Marketing, Government of Andhra Pradesh,
Cuddapah.
3 The Secretary, Agricultural Market Committee,
Puttur, Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction or an appropriate writ more particularly one in the nature of Writ of Mandamus directing the respondents to refund Rs.2,06,329.00 with interest at 24% per annum from 12-8-96 after declaring the inaction of the 3rd respondent as arbitrary, illegal, malafide and violative of the petitioners rights under Art. 14, 19(1)(g) and 300A of the Constitution of India

Counsel for the Petitioner: M/SC.KODANDA RAM

Counsel for the Respondent No. 1 and 2: GP FOR AGRICULTURE

Counsel for Respondent No.3 : Mr.P.Bhanu Prakash

The Court made the following :

ORDER:

The petitioner company filed the present writ petition seeking a direction to the respondents to refund Rs.2,06,329/- with interest at 24 % per annum from 12-8-1996.

The brief facts which lead to filing the present writ petition are that the petitioner is a registered company engaged in the business of cotton yarn, and in the year 1994-95, it is said to have purchased cotton worth Rs.2,45,54,638/- from various parties outside the State of Andhra Pradesh. While so, respondent No.3–Market Committee, issued a final assessment order dated 12-8-1996 under section 12(B) of the A.P. (Agricultural Produce and Live Stock) Market Act, 1966 and the Rules made thereunder, assessing the petitioners to market cess of Rs.3,29,668/-. Questioning the said order, the petitioners filed an appeal before respondent No.2 contending that the cotton in question was purchased from outside State parties, and no part of the sale or purchase transaction took place within the market area, and as such, it is not liable to pay the market fee. Respondent No.2 refused to entertain the appeal without pre-payment of the assessed market fee, and questioning the said order, the petitioner filed a revision before respondent No.1, and the same by order dated 17-2-1998, was allowed, and it reads as under:

> "Under these circumstances, the levy/collection of Market fee by the Agricultural Market Committee, Puttur on the Cotton purchased by the Mills from private Ginners in Karnataka is not proper and is also not in accordance with the A.P (AP & LS) Markets Act. The appellant namely the Chida Spinning Mills may approach the Agricultural Market Committee, Puttur and produce the correct figures for claiming the exemption of the market fee and also for the refund of the market fee already paid to the market committee."

Pursuant to the above order dated 17-2-1998, petitioner No.1 is said to have made several requests and representations to respondent No.3 to refund the amount already paid by it, however, no action was taken thereon. Hence, the present writ petition.

Respondent No.3 filed counter affidavit denying the writ averments. It is stated that

respondent No.1 while allowing the revision by order dated 17-2-1998 directed the petitioner to approach the Agricultural Market Committee, Puttur, and to produce the correct figures for claiming the exemption of market fee and also for refund of the market fee already paid to the Market Committee. Respondent No.3 vide letter in Roc. No. 59/96 dated 16-3-1998 asked the petitioner to produce the correct figures for claiming exemption and for refund of the market fee. It is further stated that petitioner instead of producing the correct figures and relevant evidence, had chosen to file a representation dated 19-3-1998 before respondent No.1. Since, the petitioner has not furnished the required information, respondent No.3 vide letter dated 5-1-2005 sought clarification from respondent No.1 for refund of the market fee paid by the petitioner. It is stated that the petitioner has not furnished any material to the effect that the cotton was purchased from out side the State. It is also stated that the petitioner is liable to pay the market fee since the subject cotton was brought to the notified area of respondent No.3 and the weighment, curing, dressing, processing, storage and sale took place in the notified area. It is also contended that under Section 12(1) of the Act, if there is sale or purchase of agricultural purchase within a market area for the first time, the market fee is liable to be paid. Thus, it is contended that the petitioner is not entitled to any refund.

Heard the learned counsel for the petitioner and the learned Government Pleader for Agriculture for respondent Nos. 1 and 2 and the learned Standing Counsel for respondent No.3.

The contention of the respondent No.3-market committee that the petitioner has not produced the accounts for the purchases made for the year 1994-95, cannot be accepted for the reason, the very pre-assessment order dated 20-5-1996 and final assessment order dated 12-8-1996, issued by respondent No.3-market committee show that the petitioner during the year 1994-95 made purchases out side the State to the tune of Rs.2,10,25,034. Thus it is crystal clear that the respondent upon taking into consideration the accounts of the petitioner for the year 1994-95 has arrived at the market fee payable by the petitioner. When respondent No.3 have themselves arrived at the figures as to the purchases made by the petitioner, there is no reason why respondent No.3 should insist the petitioner to furnish the details of accounts for the year 1994-95 once again. Apart from this, after passing of the impugned orders, the petitioner has filed

appeal and revision, and both in appeal and revision, respondent No.3 has admitted the amount of purchases made by the petitioner from out side the State. There being no dispute as to the extent of purchases made by the petitioner, the only question is whether the purchases made by the petitioner from outside the State are attracted by the provisions of the market yard for levy of 1% fee.

According to the petitioner, the said question was already settled by respondent No.1 in the revision, and what all respondent No.3 has to do, is to pass appropriate orders with regard to refund of 1% of the fee collected by them, in accordance with law and keeping in view the orders passed by respondent No.1 in the revision.

Having heard the learned counsel for petitioner and the learned Standing Counsel for respondents, and having regard to the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition with a direction to respondent No.3 to pass appropriate orders within a period of three weeks from the date of receipt of copy of this order in accordance with law and in the light of the observations made by respondent No.1 in the revision dated 17-2-1998. No costs.

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N.V.RAMANA,J

20-4-2005

TVK

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 Commissioner and Director of Marketing, Govt of A.P.
Hyderabad.
2 The Joint Director of Marketing, Government of Andhra Pradesh,
Cuddapah.
3 The Secretary, Agricultural Market Committee,
Puttur, Chittoor District.

4) 2 CD copies

5) 1 CC to MR.BHANU PRAKASH

*Form-NIC-OGS/WP{**VEENA**}*